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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/577,821

04/28/2006

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EXAMINER

SAETHER, FLEMMING

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/577,821	<b>Applicant(s)</b> WESOLOWSKA, MALGORZATA	
	<b>Examiner</b> Flemming Saether	<b>Art Unit</b> 3677	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 22-45 is/are pending in the application.
- 4a) Of the above claim(s) 29-38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-28 and 39-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 April 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***Election/Restrictions***

Applicant's election with traverse of group I, species C, 8 in the reply filed on 11/8/2010 is acknowledged. The traversal is on the ground(s) that they are all closely related. This is not found persuasive because the examiner disagrees that they are closely related as they would require separate searches.

Claims 29-38 are withdrawn.

The requirement is still deemed proper and is therefore made FINAL.

***Drawings***

The drawings are objected to because Figs. 19 and 20 are described in the specification as different views of the same fastener yet they do not correspond to one another. The area of the flexible joint and adapter are shown differently in Figs. 19 and 20; they are not perpendicular views of the same structure. Also, the drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because the same reference characters are used in the various embodiments wherein different structures are shown. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes

made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because of the following informalities: the specification does not include any mention of the new figures which were included on the replacement sheets.

Appropriate correction is required.

### ***Claim Objections***

Claim 45 is objected to because of the following informalities: claim 44 is objected to since it does not further limit the "fastening pin" defined in the preamble and proceeding claims. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 22-28 and 39-45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In each of claims 22, 39 and 43, line 1, "or similar" is indefinite because it is unclear what would be similar. In claim 41, there is no antecedent basis for "the inner pin end" and it is unclear what feature is being referred to. The claims were examined as best understood.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 22-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Chisholm (US 4,728,238). Chisholm discloses a fastening pin comprising a shank (14) having flexible protrusions (18 and 30) circumferentially distributed along a longitudinal axis each covering an angle less than 90 degrees around the shank and which are of different heights (note 18 as compared to 30) and which are in the form of a truncated pyramid having a variable cross-section tapering towards an outer tip and inclined toward the head and having a symmetry with the central axis.

Claims 39-41 are rejected under 35 U.S.C. 102(b) as being anticipated by Carruthers (US 5,800,109). Carruthers discloses a fastening pin comprising a shank

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(21) having flexible spade-shaped protrusions molded around the shank for 2/3 its length (see Fig. 4) and with splines fins (30) near the head (20). The fins are shown to be symmetrical and with a taper towards the lower and "inner" pin end (see Fig. 5).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chisholm as applied to claims 22 and 26 above, and further in view of Carruthers (US 5,800,109). While Chisholm discloses the heights of the protrusions are different heights in the circumferential direction it does not show them different heights in the longitudinal direction. Carruthers discloses a similar fastener having protrusions (24) with different heights in the longitudinal direction (see Fig. 5). At the time the invention was made, it would have been obvious for one of ordinary skill in the art to add to the protrusions of Chisholm, which already have different heights in the circumferential direction, different heights in the longitudinal direction as disclosed in Carruthers so as to better facilitate the insertion of the fastener into a hole.

Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carruthers as applied to claim 39 above, and further in view of Fegen (US 3,777,052).

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Fegen discloses a fastening pin with a flexible neck portion (21) between a head (39) and a shaft (23). At the time the invention was made, it would have been obvious for one of ordinary skill in the art to provide the pin of Carruthers with a similar neck portion so as to provide for the attachment of another member to fastener and allowing it some flexibility.

Claims 43 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fegen (US 3,777,052) in view of Chisholm (US 4,728,238). Fegen discloses a fastening pin comprising a head (39) having a bottom; a shank (23) having a top and a flexible joint portion (21) located between the head bottom and a shaft top. Fegen further discloses the shaft to have a bottom area (24) with flexible projections (25) but does not disclose the flexible projection having a shape as claimed. Chisholm also discloses a fastening pin comprising a shank having flexible projections but, in Chisholm the flexible projections (18 and 30) are radial projections homogenously distributed circumferentially along a longitudinal axis each having a variable cross-section tapering towards their second ends and inclined toward the head having symmetry with the central axis. At the time the invention was made, it would have been obvious for one of ordinary skill in the art to replace the projections of Fegen with ones as disclosed in Chisholm because the ones in Chisholm would provide a superior holding in a greater variety of materials having various thicknesses thus making them more versatile. The combination with the floor strip is only claimed as an intended use and the fastener of modified Fegen would be capable of the intended use.

***Allowable Subject Matter***

Claim 44 appears would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Flemming Saether whose telephone number is 571-272-7071. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached on 571-272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Primary Examiner  
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